



Ninety-Seventh Legislature - First Session - 2001
Introducer's Statement of Intent
LB 53

Chairperson: Senator David M. Landis
Committee: Banking, Commerce and Insurance
Date of Hearing: January 22, 2001

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 53 is an omnibus bill introduced at the request of the Nebraska Department of Banking and Finance. The bill addresses issues relating to the financial institutions and companies under the jurisdiction of the department. Its primary purpose is to update and clarify the laws governing these entities. The following is a description of this proposed legislation and the reasons supporting the proposals.

Section 1 amends section 8-143.01 of the Nebraska Banking Act governing loans to insiders of state-chartered banks, to conform the language to a 1999 statutory change to section 8-141, which sets the overall lending limit of the bank. Without this amendment, the statutes are in conflict.

Section 2 updates section 8-1,140 of the Nebraska Banking Act, which is the "wild-card" statute for state-chartered banks. The law provides parity between state and nationally chartered banks, and is required to be updated on an annual basis to meet state constitutional restrictions.

Section 3 section 8-208 of the Nebraska Trust Company Act to provide that real estate transfers by a trust company which currently are to be pre-authorized by the board of directors or a committee of the board, may further be post-authorized if done within ninety days of the transaction.

Section 4 updates section 8-355 of the building and loan statutes, which is the "wild-card" statute for state-chartered savings and loan associations. The law provides parity between state and federally chartered savings and loan associations, and is required to be updated on an annual basis to meet state constitutional restrictions.

Sections 5 to 15 rename the Nebraska Sale of Checks Act (sections 8-1001 to 8-1015) as the Nebraska Sale of Checks and Funds Transmission Act, to more accurately reflect the jurisdiction of the act, which covers sales of travelers checks, money orders, and the electronic transmission of money.

Section 16 updates a time reference to existing federal securities laws contained within section 8-1101(14) of Securities Act of Nebraska.



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Section 17 amends section 8-1103(4)(c) to provide that registration of investment advisers and investment adviser representatives, and notice filings of federal covered advisers, will expire annually on December 31, rather than one year from the date of issuance/date of filing. This section also amends section 8-1103(5) to provide that renewals of entity registrations under the Securities Act of Nebraska may be made through a registration depository designated by the Director of Banking and Finance, and that the director can determine the information required for renewal of registrations by rule, regulation, or order. These changes will assist the Department of Banking and Finance in continuing to implement electronic registration filing systems with other states.

Section 18 amends section 8-1108.01 of the Securities Act of Nebraska to provide that hearings for cease and desist orders issued under the act are to be held within thirty business days after the department's receipt of a request for hearing, unless a later date is consented to by the parties or set by the hearing officer for good cause. This amendment is one of a series of amendments intended to provide uniformity in the hearing procedures for laws under the department's jurisdiction.

Section 19 amends section 8-1109.02 of the Securities Act of Nebraska to provide that hearings for revocation and suspension of securities registration statements are to be held within thirty business days after the department's receipt of request for hearing, unless a later date is consented to by the parties or set by the hearing officer for good cause. This amendment will assist in providing uniformity in the department's hearing procedures.

Section 20 amends section 8-1110 of the Securities Act of Nebraska to update and clarify cross-references within the statute governing exemptions from the securities registration requirements. Subsection (6) governing the "blue-chip" exemption is the statute primarily affected.

Section 21 amends section 8-1735 to provide that persons subject to orders under the Nebraska Commodity Code must request a hearing within thirty business days from the entry of an order, and to provides that a hearing date can be set later than thirty business days after the department's receipt of a request for a hearing if the parties consent or if the hearing officer finds good cause to do so. This amendment will assist in providing uniformity in the department's hearing procedures.

Section 22 amends section 21-17,103 of the Credit Union Act to provide that state-chartered credit unions will follow the reserve requirements as set by 12 CFR 702, and to authorize the Department of Banking and Financing to require higher levels of reserves if the department determines that the financial condition of the credit union warrants such a level. This amendment is to remove conflicts with federal law requirements.



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Section 23 updates section 21-17,115 of the Credit Union Act, which is the “wild-card” statute for state-chartered credit unions. The law provides parity between state and federally chartered credit unions, and is required to be updated on an annual basis to meet constitutional restrictions.

Section 24 amends section 45-190 of the loan broker statutes to narrow the definition of a loan broker to include only those persons who assist potential borrowers in making loan applications. The current definition includes persons who consult with or advise potential borrowers, and has been found to be overly broad.

Section 25 amends section 45-191.02 of the loan broker statutes to increase a loan broker filing fee from \$50 to \$150. The fee is for filing of required disclosure documents. The proposal is intended to assist the Department of Banking and Finance in meeting its costs in this area.

Section 26 amends section 45-191.04 of the loan broker statutes to provide a borrower a three-day right of cancellation of a loan brokerage agreement. The amendment sets out the language that must be included in the notice of this right of cancellation. Requirements are added to provide that loan brokerage agreements contain information as to the terms and conditions of payment, the services to be provided by the loan broker, the address of the loan broker and its Nebraska agent for service of process, and the business form of the loan broker. The proposal will provide consumers with additional information and rights.

Section 27 amends section 45-191.09 of the loan broker statutes to provide that a hearing under the loan broker sections will be held within thirty business days of the department's receipt of the request for hearing unless a later date is consented to by the parties or set by the hearing officer for good cause. This amendment will provide uniformity in the department's hearing procedures.

Section 28 amends section 45-717 of the Mortgage Bankers Registration and Licensing Act to provide that a request for a hearing under the act must be made within fifteen business days after entry of an order, and that the hearing will be set within thirty business days of the department's receipt of the request for hearing unless a later date is consented to by the parties or set by the hearing officer for good cause. This amendment is to provide uniformity in the department's hearing procedures.

Section 29 amends section 45-902 of the Delayed Deposit Services Licensing Act to change the phrase “shall mean” to “means” in the act's definitions in order to coordinate with guidelines of the Bill Drafters Office.



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Section 30 amends section 45-906 of the Delayed Deposit Services Licensing Act to increase the fee for an initial application for a license under the act from \$300 to \$500 to allow the Department of Banking and Finance to cover its costs. The section also contains amendments to the requirements for surety bonds under the act, and provides that a licensee, which loses or does not renew its surety bond must immediately cease doing business and surrender its license or its license will be cancelled.

Section 31 amends section 45-910 of the Delayed Deposit Services Licensing Act to provide for the cancellation of a license issued under the act, and to increase the fee for a renewal application for a delayed deposit services business license from \$100 to \$150.

Section 32 amends section 45-922 of the Delayed Deposit Services Licensing Act to provide that the Department of Banking and Finance may cancel a license issued under the act, without prior notice and hearing, if a licensee fails to renew its license or fails to maintain the required surety bond. The amendment also provides that termination of a license by any authorized method does not affect pre-existing obligations between the licensee and any person, nor does it affect criminal or civil liability for acts committed prior to such termination.

Section 33 amends section 45-923 of the Delayed Deposit Services Licensing Act to provide that a hearing under the act is to be set within thirty business days of the department's receipt of the request for hearing unless a later date is consented to by the parties or set by the hearing officer for good cause. This amendment will provide uniformity in the department's hearing procedures.

Section 34 amends section 59-1722 of the Seller-Assisted Marketing Plan Act to authorize the Department of Banking and Finance, following notice, hearing, and order, to deny or revoke an exemption under the act if the denial or revocation would be in the public interest or necessary to protect purchasers. Summary orders would also be authorized pending final proceedings.

Section 35 amends section 59-1725.01 of the Seller-Assisted Marketing Plan Act to provide that a hearing under the act is to be set within thirty business days of the department's receipt of the request for hearing unless a later date is consented to by the parties or set by the hearing officer for good cause. This amendment will provide uniformity in the hearing procedures under the department's jurisdiction.

Section 36 amends section 59-1733 of the Seller-Assisted Marketing Plan Act to provide that the department, by rule, regulation, or order of the Director of Banking and Finance, may require additional information within the disclosure document required by the act to be given by the seller of a Plan to a potential buyer.



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Section 37 amends section 69-2117 Consumer Rental Purchase Agreement Act to provide that that a hearing under the act is to be set within thirty business days of the department's receipt of the request for hearing unless a later date is consented to by the parties or set by the hearing officer for good cause. This amendment will provide uniformity in the hearing procedures under the department's jurisdiction.

Section 38 provides for an operative date of three calendar months after session adjournment for sections 16 to 21, 26 to 28, 34 to 37, and 39, and provides for application of the emergency clause to the remaining sections.

Sections 39 and 40 provide repealers.

Section 41 provides for the emergency clause.

Principal Introducer:

Senator David M. Landis